

*Frequently Asked Questions
Regarding the
Topeka Shiner Critical Habitat Designation*

What action is the Fish and Wildlife Service taking?

The Fish and Wildlife Service is designating 836 miles of stream in the States of Iowa, Minnesota, and Nebraska as critical habitat for the Topeka shiner, an endangered species protected under the Federal Endangered Species Act.

Excluded from the designation is all previously proposed critical habitat in the States of Kansas, Missouri, and South Dakota as well as habitat on the Fort Riley Military Installation in Kansas.

What is the Topeka shiner?

This small, silvery minnow is 3 inches or less in length. It is found in small to mid-size prairie streams with relatively high water quality and cool-to-moderate temperatures. If this fish is to survive and flourish, the form and structure of the streams where it lives must be safeguarded, so that the habitat and the balance of fish species in these streams is not significantly altered. While the Topeka shiner can sometimes live in streams with degraded habitat conditions, its long-term survival in these streams is at risk. The Topeka shiner was listed as endangered on Dec. 15, 1998.

Why is the Service designating critical habitat for the Topeka shiner?

In an April 4, 2001 court settlement, the Service agreed to designate critical habitat for the Topeka shiner by Aug. 13, 2003. Due to budget constraints, the Service petitioned the court for an extension of the deadline until July 17, 2004.

What is critical habitat?

Critical habitat designates areas that contain habitat essential for the conservation of a threatened or endangered species and which may require special management considerations. A designation does not set up a preserve or refuge and has no specific regulatory impact on landowners' actions on their land that do not involve federal agency funds, authorization or permits.

Which areas are designated as critical habitat for the Topeka shiner?

The critical habitat designation includes:

Iowa:

Raccoon River Watershed:

<u>County</u>	<u>Stream segments</u>	<u>Total stream miles</u>
Calhoun	8	68
Carroll	2	7
Dallas	3	3
Greene	8	87
Sac	4	12
Webster	1	9

Boone River Watershed:

<u>County</u>	<u>Stream segments</u>	<u>Total stream miles</u>
Hamilton	1	1
Wright	3	16

Rock River Watershed:

<u>County</u>	<u>Stream segments</u>	<u>Total stream miles</u>
Lyon	3	16
Osceola	1	5

Minnesota:

Big Sioux River Watershed:

<u>County</u>	<u>Stream segments</u>	<u>Total stream miles</u>
Lincoln	4	27
Pipestone	13	106
Rock	11	101

Rock River:

<u>County</u>	<u>Stream segments</u>	<u>Total stream miles</u>
Murray	2	19
Nobles	14	115
Pipestone	8	90
Rock	16	146

Nebraska:

Elkhorn River Watershed:

<u>County</u>	<u>Stream segments</u>	<u>Total stream miles</u>
Madison	1	6

Which areas are excluded from the critical habitat designation?

All previously proposed lands in the states of Kansas, Missouri, and South Dakota and on the

Fort Riley Military Installation in Kansas are excluded from the designation.

Why are these lands excluded?

Lands in the States of Missouri, Kansas, and South Dakota were excluded from critical habitat designation because those states have management plans that provide comprehensive conservation measures and programs necessary to achieve recovery of the Topeka shiner. These state management plans satisfied the following three criteria: (1) they provide a conservation benefit to the species (i.e., the plans must maintain or provide for an increase in the species population or enhancement or restoration of its habitat within the area covered by the plan); (2) they provide assurances that they will be or will continue to be implemented; and (3) they provide assurances that they will be effective (i.e., the plans must identify biological goals, have provisions for reporting progress, and are of a duration sufficient to implement the actions and achieve the goals and objectives).

In addition, the Endangered Species Act requires the Service take into consideration the economic impact, impacts to national security, and any other relevant impact, of specifying any particular area as critical habitat. Based on these considerations, areas can be excluded from critical habitat designation when the benefits of exclusion outweigh the benefits of inclusion, provided the exclusion will not result in the extinction of the species.

How did the Service determine what should be designated as critical habitat for the Topeka shiner?

The best scientific data available was used to determine areas that contain the physical and biological features essential for the conservation of the Topeka shiner. In designating critical habitat, the Service reviewed the conservation of the species undertaken by local, State and Federal agencies, Tribal governments, and private individuals and organizations since the species was listed in 1998. The Service reviewed available information concerning Topeka shiner habitat use and preferences, habitat conditions, threats, limiting factors, population demographics, and the known location, distribution, and abundance of Topeka shiners.

Are there areas being designated as critical habitat where Topeka shiner are not currently known to occur?

No. All areas designated as critical habitat for the Topeka shiner are considered occupied by the species or are short stream segments that provide critical links between occupied habitats.

How does critical habitat affect private landowners?

A critical habitat designation has no specific regulatory impact on private landowners who take actions on their land that do not involve Federal funding or require a Federal permit. Activities

normally conducted by a landowner or operator of a business not involving Federal funding, permitting, or authorization in order to occur would not be affected.

It is important, however, to remember that because the Topeka shiner is a listed species, private landowners must not harm or otherwise take Topeka shiners unless they have an incidental take permit issued by the Service. This obligation results from the listing of the Topeka shiner as an endangered species, not the critical habitat designation.

Would a critical habitat designation affect swimming, boating and fishing?

In most cases, a critical habitat designation will not impact swimming, boating or fishing. In rare instances, where Federal funding, authorization or permits are required – such as construction of a new boating facility – consultation with the Fish and Wildlife Service may be necessary. Most of these types of projects already are being reviewed under the section 7 interagency consultation requirements of the Endangered Species Act.

Who would be affected by a critical habitat designation?

Federal agencies are required to consult with the Service on actions they carry out, fund, or authorize that might affect critical habitat. It is important to note that in most cases, this is already occurring under the section 7 interagency consultation requirements of the Endangered Species Act. Non-Federal entities, including private landowners, that may also be affected could include, for example, those seeking a U.S. Army Corps of Engineers 404 permit under the Clean Water Act to build an in-water structure, those seeking Federal approval to discharge effluent into the aquatic environment, or those seeking Federal funding to implement land management practices where such actions affect the aquatic environment that has been designated as critical habitat. But again, in most cases where this link exists between activities on private lands and Federal funding, permitting, or authorization, consultation under section 7 of the Endangered Species Act is already occurring.

What effect does the critical habitat designation for Topeka shiner have on National Fire Plan interagency coordination?

It prompts Federal agencies to consider the effects of proposed actions on critical habitat. Each Federal agency must confer with the U.S. Fish and Wildlife Service on any action that

may affect listed species or designated critical habitat. This includes any actions proposed under the National Fire Plan. Consultation can take the form of informal discussions during which the Service may suggest modifications to the action to avoid or minimize impacts to critical habitat. If the Federal agency determines that the proposed action is not likely to adversely affect designated critical habitat and the Service concurs with this determination, consultation can be concluded informally. If the proposed action is likely to adversely affect critical habitat, formal consultation is required.

Will this critical habitat designation affect water rights or usage?

It will not affect water rights. In cases where irrigation is provided through a Federal agency, such as the Bureau of Reclamation, that agency would have to consult with the Service to determine whether water withdrawals would adversely impact Topeka shiner critical habitat. However, it is important to note that most of these types of projects already are being reviewed under the section 7 interagency consultation requirements of the Endangered Species Act.

Will this critical habitat designation impact the use of land adjacent to the designated waterways?

Possibly. If the adjacent land is Federal land or the land is private but has a Federal nexus involving funding or permits, the proposed land use activity would be assessed for its potential impacts on Topeka shiner critical habitat in the aquatic environment through consultation with the Federal agency. Most of these types of projects already are being reviewed under the section 7 interagency consultation requirements of the Endangered Species Act.

How long does a critical habitat designation remain in effect?

A critical habitat designation remains in effect until the species is considered to be recovered, and is removed from the Endangered Species list.

If you have any questions regarding how critical habitat may affect you or your activities, please call the Service's Manhattan, Kansas field office at 785-539-3474.